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9 Attorneys for Defendant
10 JOHN CRANE, INC.

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF GUAM**

13 CESS NAVARRO OLMO, RONNIE) CIVIL CASE NO. 05-00025
14 PASCUAL FERRERAS,)

15 Plaintiff,)

16 vs.)

17 A.P. GREEN INDUSTRIES, INC., A.P.)
GREEN SERVICES, INC., A.W.)
18 CHESTERTON COMPANY, AMCHEM)
PRODUCTS, INC., ARMSTRONG WORLD)
19 INDUSTRIES, INC., ASBESTOS CLAIMS)
MANAGEMENT CORPORATION,)
20 BABCOCK & WILCOX COMPANY,)
COMBUSTION ENGINEERING, INC., DOW)
21 CHEMICAL COMPANY, DRESSER)
INDUSTRIES, INC., FLEXITALLIC, INC.,)
22 FLINTKOTE COMPANY, FOSTER)
WHEELER CORP., GAF CORPORATION,)
23 GARLOCK, INC., GEORGIA-PACIFIC)
CORPORATION, HARBISON-WALKER)
24 REFRACTORIES CO., HONEYWELL)
INTERNATIONAL, INC., JOHN CRANE,)
25 INC., KAISER GYPSUM COMPANY, INC.,)
METROPOLITAN LIFE INSURANCE)

FILED

DISTRICT COURT OF GUAM

NOV 28 2005

MARY L.M. MORAN
CLERK OF COURT

1 COMPANY, OWENS CORNING, OWENS-)
2 ILLINOIS, INC., PITTSBURGH CORNING)
3 CORPORATION, QUIGLEY COMPANY,)
4 INC., UNITED STATES GYPSUM)
5 COMPANY, VIACOM, INC.,)

6 Defendants.)

7 JOHN CRANE, INC.,)

8 Cross-Claimant,)

9 vs.)

10 A.W. CHESTERTON COMPANY, BAYER)
11 CROPSOURCE, INC., DOW CHEMICAL)
12 COMPANY, FOSTER WHEELER CORP.,)
13 GARLOCK, INC., GEORGIA-PACIFIC)
14 CORPORATION, HONEYWELL INTER-)
15 NATIONAL, INC., KAISER GYPSUM)
16 COMPANY, INC., METROPOLITAN LIFE)
17 INSURANCE COMPANY, OWENS-)
18 ILLINOIS, INC., and VIACOM, INC.,)

19 Cross-Claim
20 Defendants.)

21
22 **REPLY TO CROSS-CLAIM OF GARLOCK, INC.,**
23 **VIACOM, INC. and FOSTER WHEELER CORPORATION**

24 COMES NOW, Defendant/Cross-Defendant JOHN CRANE, INC., through its
25 counsel, MAHER, YANZA, FLYNN, TIMBLIN, LLP, by Louie J. Yanza, and hereby
replies to the Cross-Claims of Defendants/Cross-Claimants GARLOCK, INC.,
VIACOM, INC. and FOSTER WHEELER CORPORATION, filed in the above-entitled
action on November 8, 2005, as follows:

1. Cross-Defendant JOHN CRANE, INC. denies, generally and specifically,
each and every allegation contained in paragraphs 3, 4, 5, 6, and 7 the

1 Cross-Claims filed by Defendant/Cross-Claimants GARLOCK, INC.,
2 VIACOM, INC. and FOSTER WHEELER CORPORATION.

3 2. Cross-Defendant JOHN CRANE, INC. states that it is without knowledge
4 or information sufficient to allow it to formulate a belief as to the truth or
5 veracity of the allegations contained in paragraphs 1, and 2 of the Cross-
6 Claims and, based thereon, therefore, denies, generally and specifically,
7 the same.

8 3. Except as otherwise specifically admitted herein, Cross-Defendant
9 JOHN CRANE, INC. denies, generally and specifically, each and every
10 allegation in the Cross-Claims filed by Defendant/Cross-Claimants
11 GARLOCK, INC., VIACOM, INC. and FOSTER WHEELER
12 CORPORATION, not otherwise denied.
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14
15 **FIRST DEFENSE**

16 The Cross-Claims fail to state a claim against JOHN CRANE, INC. upon which
17 relief can be granted.

18
19 **SECOND DEFENSE**

20 JOHN CRANE, INC. denies all allegations of the Cross-Claims.

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22 **THIRD DEFENSE**

23 In answer to the Cross-Claims, JOHN CRANE, INC. repeats and realleges
24 each and every affirmative defense set forth in its November 14, 2005 Answer to the
25 First Amended Complaint, and incorporates each by reference as though fully set forth
herein.

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1. Cross-Claimant JOHN CRANE, INC. is a Delaware corporation.
2. Cross-Claim Defendants are duly organized and existing under the laws of the various states of the United States of America.
3. On August 16, 2005, Plaintiffs filed a First Amended Complaint in the United States District Court, District of Guam, alleging they suffered injuries as a result of their exposure to asbestos-containing products during the course of their employment.
4. As referred to in this Cross-Claim, "Cross-Claim Defendants" include all of the remaining Defendants, but not Defendant JOHN CRANE, INC.
5. If Plaintiffs were damaged or injured as alleged, said damages or injuries are not the fault or responsibility of Defendant JOHN CRANE, INC., but are the direct and proximate result of the negligence, fault, breach of warrant, strict liability or other legal responsibility of the Cross-Claim Defendants. Cross-Claimant JOHN CRANE, INC. is therefore entitled to contribution, subrogation and/or indemnity from Cross-Claim Defendants.
6. If Plaintiffs sustained any damages and injuries as alleged, such damages and injuries were proximately caused by Cross-Claim Defendants, and not by Cross-Claimant JOHN CRANE, INC.
7. Any negligence or other fault on the part of Cross-Claimant JOHN CRANE, INC. was merely passive and secondary, whereas the negligence and/or fault of Cross-Claim Defendants were primary and

1 active, and Cross-Claimant JOHN CRANE, INC. is entitled to
2 indemnification from Cross-Claim Defendants.

3 8. If Defendant JOHN CRANE, INC., is found liable to Plaintiffs, then
4 Cross-Claim Defendants are also liable to Plaintiffs and to Cross-
5 Claimant JOHN CRANE, INC. for contribution in their pro-rata shares of
6 any judgment or settlement in favor of the Plaintiffs.

7
8 9. If Defendant JOHN CRANE, INC. is found liable to Plaintiffs, then the
9 other Cross-Claim Defendants are also liable as a result of their
10 negligence, strict liability, breaches of warranty, concerted action or
11 other fault arising out of their mining, manufacture, distribution or sale of
12 asbestos or products containing or using asbestos.

13
14 WHEREFORE, Defendant/Cross-Claimant JOHN CRANE, INC. prays for
15 judgment as follows:

- 16 1. For judgment in favor of JOHN CRANE, INC and against Cross-Claim
17 Defendants, in the amount of any judgment rendered in favor of Plaintiffs
18 on their First Amended Complaint;
- 19 2. That Cross-Claim Defendants be ordered to indemnify Cross-Claimant
20 JOHN CRANE, INC. for any liability imposed upon Cross-Claimant
21 JOHN CRANE, INC.;
- 22 3. That if Cross-Claimant JOHN CRANE, INC. and any or all of the Cross-
23 Claim Defendants are found liable, the relative degree of fault of each be
24 determined and that Cross-Claimant JOHN CRANE, INC. have judgment
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1 against any or all of the other Cross-Claim Defendants for any excess
2 over and above Cross-Claimant JOHN CRANE, INC.'s pro rata share of
3 any judgment;

4 4. That regardless of any judgment in favor of Plaintiffs, for judgment
5 against Cross-Claim Defendants for Cross-Claimant JOHN CRANE,
6 INC.'s attorney's fees and costs incurred herein; and

7
8 5. For such other and further relief as the Court may deem just and proper.

9 Dated this 28th day of November, 2005.

10 **MAHER . YANZA . FLYNN . TIMBLIN, LLP**
11 **Attorneys for Defendant/Cross-Claimant**
JOHN CRANE, INC.

12
13 By: _____

14 **LOUIE J. YANZA**
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[illegible]

I, LOUIE J. YANZA, hereby certify that on November 28, 2005, I caused a copy of the DEFENDANT JOHN CRANE, INC.'S REPLY TO CROSS-CLAIM OF GARLOCK, INC., VIACOM, INC., and FOSTER WHEELER CORPORATION; AND CROSS-CLAIMS, filed in the above-entitled action on November 28, 2005, to be served upon the parties hereto, by either delivering, faxing and/or mailing a copy of same to their attorneys of record, as follows:

Counsel for Metropolitan Life Insurance Company

1 **CERTIFICATE OF SERVICE**

2 **Cess Navarro Olmo, et al. v. A.P. Green Industries, Inc., et al.**

3 **U.S. District Court of Guam, Civil Action No. 05-00025**

4 J. Patrick Mason, Esq.
5 **CARLSMITH BALL, LLP**
6 Bank of Hawaii Building, Suite 401
7 134 West Soledad Avenue
8 Post Office Box BF
9 Hagatña, Guam 96932-5027

10 **Counsel for Georgia-Pacific Corporation, A.W. Chesterton Company, and Kaiser**
11 **Gypsum Company, Inc.**

12 **and, via regular mail, on November 28, 2005 to all the parties listed below:**

13 **Honeywell International, Inc.**
14 c/o Corporation Service Company
15 2711 Centerville Road, Suite 400
16 Wilmington, DE 19808

17 **Dated this 28 day of November, 2005.**

18 **MAHER . YANZA . FLYNN . TIMBLIN, LLP**
19 **Attorneys for Defendant/Cross-Claimant**
20 **JOHN CRANE, INC.**

21 **By:**

22 **LOUIE J. YANZA**
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